IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

Criminal Writ Petition no. 417 of 2007

Mr. Baby Thomas Petitioner.

v/s.

State of Maharashtra & anr. Respondent.

Mr.A.P. Mundargi with Mr. Nishigandh N. Patil for the Petitoners.
Mr. M.R. Raut for the Respondent no.2
Mr.Y.S. Shinde, APP for the State

CORAM : B.H. MARLAPALLE, J.

3RD AUGUST, 2007.

P.C. :-

. Heard Mr. A.P. Mundargi, Senior counsel with Smt. Nishigandh N. Patil for the Petitioner. The Petitioner prays for quashing the proceedings in CR no. 213/2002 case no. 415 of 2006 presently pending before the learned Judicial Magistrate, First Class at Thane.

2. It appears that the Respondent no. 2 Miss Eugine Patrick had gone out to Israil tour arranged by M/s. Princy World Travels and paid an amount of Rs.two lacs for security deposit. The said tour was to return within one week but the Respondent no. 2 did not return and she came back after one month. She had

approached for getting security deposit refund from the travel agency run by the present petitioner and, therefore, she approached the Mira Road Police Station and lodged an FIR on or about 26-2-2002. Subsequently, she filed a private complaint before the Judicial Magistrate First Class at Thane which came to be registered as CR no. 213 of 2002 and alleged that the Respondent no. 4 lawyer and respondent no. 3 lured her in filing a false complaint and her original complaint against the travel agency was only for getting the refund of Rs.two lacs and nothing further. She disowned the allegations made in the FIR against the Petitioner. She has filed an affidavit in reply in this petition through Mr. Raut, Learned advocate appearing for her and claimed that she was misrepresented in the FIR by taking advantage of her status and to extract money from the petitioner and others. She has reiterated that she intended to file the complaint only for recovery of Rs. two lacs with Mira Road Police Station and nothing further. She has, therefore, prayed for appropriate orders to be passed.

3. There are other 5 affidavits filed by the Co-travellers viz. Smt. Leenamma Xavier, Smt. Lillt Stephen, Mr. Alexander Terrence, Smt. Stephen Mariam Selbory, Mr. Yesudasan Francis all residents of Kerala State. They stated that they have been shown as

witnesses in charge sheet no. I 107/2006 in case no. 415/2006. They have stated that at no point of time during the investigation they made any statement before any officer of the Mira Road Police station in respect of the FIR lodged at the instance of respondent no. 2.

4. Hence, the Petition is hereby allowed and the proceedings in criminal case no. 415/2006 presently pending before the Learned Judicial Magistrate First Class, 9th Court at Thane are hereby quashed and set aside.

(B.H.MARLAPALLE,J)